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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,940	03/28/2001	Leana Golubchik	T2315-907180	9623

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EXAMINER

DAVIS, ZACHARY A

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/818,940	Applicant(s) GOLUBCHIK ET AL.	
	Examiner Zachary A. Davis	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A Request for Continued Examination was received on 10 August 2005. The amendment received 22 July 2005 has been entered. Claims 1, 13, 23, and 29 have been amended. No claims have been added or canceled. Claims 1-32 are currently pending in the present application.

Response to Arguments

2. Applicant's arguments, see pages 15-16, filed 22 July 2005 and presented in the interview of 14 July 2005, with respect to Claims 1-22 and 29-32 have been fully considered and are persuasive. The rejection of Claims 1-22 and 29-32 under 35 U.S.C. 102(e) has been withdrawn.

3. Applicant's arguments with respect to claims 23-28 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

4. Claims 16, 29, and 32 are objected to because of the following informalities:

It appears that "dataresponsive" in Claim 16 is intended to read "data responsive".

Claims 29 and 32 each recite an "id generator". It is recommended that "id" be capitalized (i.e., "ID") or replaced with, for example, "identifier".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 13, 27, and 29 each recite the limitation "the authenticator" (see Claim 1, lines 10 and 11; Claim 13, line 10; Claim 27, line 8; and Claim 29, lines 11, 13, and 14). However, there is insufficient antecedent basis for this limitation in the claims. Specifically, the claims each recite "at least one authenticator"; if there is more than one authenticator, then it is unclear to which of the more than one authenticators the limitation "the authenticator" refers. Similarly, Claims 6-9, 12, 17-22, and 30, which depend from the above claims, also recite the limitation "the authenticator"; it is unclear to which of the "at least one authenticator" this limitation refers if there is more than one authenticator. This renders the claims indefinite. For examination purposes, it is assumed that all references to "the authenticator" in the above claims are intended to refer to "the at least one authenticator".

The Examiner notes that the recitations of “the authenticator” in Claims 24 and 28 do not raise further issues of indefiniteness under 35 U.S.C. 112, second paragraph, as there is sufficient antecedent basis for the limitation in those claims.

Claims 4, 5, 7, 9, 12, 15, 19, 23, 25, 27, and 28 each use language of the form “having [a structure] [perform an action]”. For example, independent Claim 23 recites the limitation “having the common destination server upload the data of a client”. These limitations render the claims indefinite because it is unclear what the subject of the limitations is; that is, it is not clear who or what exactly has the destination server upload the data, or who or what causes the destination server to upload the data. The Examiner has assumed that the limitations are intended to read as follows, and the Examiner further suggests that the Claims be amended to reflect the following changes:

In Claims 4, 11, and 15, “having each upload proxy server send a message” should be amended to read “each upload proxy server sending a message”.

In Claims 5 and 23, “having the common destination server upload the data” should be amended to read “the common destination server uploading the data”.

In Claims 7, 9, and 19, “having the authenticator create an event identifier” should be amended to read “the at least one authenticator creating an event identifier”. In Claim 12, “having the authenticator send a message” should be amended to read “the at least one authenticator sending a message”.

In Claim 25, “having the authenticator create an event identifier” should be amended to read “the authenticator creating an event identifier”.

In Claims 27 and 28, "having the common destination server use the unique identifier" should be amended to read "the common destination server using the unique identifier".

The Examiner notes that the use of "having" as a transitional phrase in Claim 29, specifically "the authenticator having a time-stamper" and "the authenticator having a sender" does not raise further issues of indefiniteness under 35 U.S.C. 112, second paragraph, as the use is clear, distinct, and definite.

Further in reference to independent Claim 23, as the Examiner mentioned in the interview of 14 July 2005, the limitation "sending a message, which is smaller in size than the data of a client, to the common destination server to indicate that the common destination server needs to check the corresponding one of the upload proxy servers, and upload data from the corresponding one of the upload proxy servers" is generally unclear. Specifically, the phrase "the common destination server *needs to check* the corresponding one of the upload proxy servers" is generally informal and vague, as it is not clear what exactly the destination server needs to check the corresponding proxy server for. The Examiner suggests that the claim be amended to read "sending a message, which is smaller in size than the data of a client, to the common destination server to indicate that the corresponding one of the upload proxy servers is holding data to be uploaded by the common destination server" or "sending a message, which is smaller in size than the data of a client, to the common destination server to indicate that the corresponding one of the upload proxy servers is holding data for the common destination server", as recited in similar terms in, for example, Claim 4.

Claims not specifically referred to above are rejected due to their dependence on a rejected base claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faris et al, US Patent 6659861, in view of Boyle et al, US Patent 6138158 (cited in the Office action of 03 December 2004).

In reference to Claim 23, Faris discloses a method including providing a common destination server (Figure 2, Primary Server 100) and a plurality of upload proxy servers (Figure 2, Game Servers 150); each client sending data intended for the destination server to one of the proxy servers (column 37, lines 4-10); sending a message smaller than the data of the client to the destination server; and pulling the data held at the proxy server to the destination server (column 36, line 54-column 37, line 10). However, Faris does not explicitly disclose that the message is an indication that the proxy server is holding data for the destination server to upload.

Boyle discloses a system in which a proxy server (Figure 1, link server device 114; see also column 5, lines 37-45, noting that link server device 114 is also referred to

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as a proxy server) sends a notification indicating that updated data is waiting to be retrieved (column 7, lines 12-16 and 18-27; column 5, lines 31-35) and the recipient of the notification can then retrieve the data at its discretion (column 7, lines 26-27; column 8, lines 10-13; column 5, lines 35-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Faris by including in a sent message a notification that data is being held for uploading, in order to reduce costs and decrease network traffic (see Boyle, column 3, lines 32-39).

In reference to Claims 24 and 26, Faris further discloses establishing an authenticator for anticipated large amounts of data and supplying criteria for receiving data to the authenticator, including an encryption level (column 30, lines 15-52).

In reference to Claim 25, Faris further discloses an event identifier (column 31, lines 6-27).

In reference to Claim 27, Faris further discloses generating a unique identifier corresponding to data that a client intends to send to a common destination server (column 24, lines 4-12), transmitting the identifier to an authenticator (column 36, lines 54-55), and digitally signing the identifier (column 36, lines 55-58). Faris also discloses using the identifier to confirm that the data has not been altered since the identifier was generated (column 39, lines 11-19).

In reference to Claim 28, Faris further discloses time-stamping the identifier (column 36, lines 55-58) and confirming that the data has not been altered since being time-stamped (column 39, lines 11-19).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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